

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 3123 of 2020 (O&M)

Date of decision: 29.03.2022

Gulshan Kumar

... Petitioner

Versus

State of Haryana and others

....Respondents

Coram: Hon'ble Mr. Justice Arun Monga

Present:- Mr. Manoj Makkar, Advocate for the petitioner.

Ms. Kirti Singh, Deputy Advocate General, Haryana.

Arun Monga, J (oral)

Inter alia, issuance of a writ in the nature of certiorari has been sought seeking to quash order dated 16.12.2019 (Annexure P-8) passed by respondent No.2 whereby the application of the petitioner requesting for a job on compassionate grounds as his father is missing since 16.07.2008, was rejected.

2. Learned counsel for the petitioner submits that the father of petitioner namely, Ashwani Kumar was working as Beldar since 2.9.1996 in Public Works Dept. (B & R). Petitioner's father was missing from 16.7.2008. He would have retired on 30.4.2022 on attaining age of superannuation. On 17.7.2015, mother of petitioner moved an application for financial assistance after a lapse of 7 years from 16.07.2008, since when Ashwani Kumar was missing, for releasing all the service benefits and allowances. Thereafter, Respondent No.2 accorded benefit of payment of monthly financial assistance to the mother of petitioner for the period of 12 years. After new notification, petitioner moved an application on 08.08.2019 for compassionate appointment. He submits that petitioner is ready to return/pay

back the entire amount along with up-to-date accrued interest which was taken by his mother as payment of monthly finance assistance.

3. Learned State counsel, on advance service appears and submits that claim of the petitioner for compassionate appointment has been declined vide order dated 16.12.2019 (Annexure P-8) on the ground that his family has already availed Financial Assistance as per Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, prior to coming into effect the Government instructions dated 02.08.2019 (Annexure P-5), therefore, he is found ineligible for compassionate appointment.

4. She further submits that the impugned order has rightly been passed on the ground that the very purpose of compassionate appointment is to alleviate the immediate financial hardship of the family of the deceased employee, who dies in harness all of a sudden. It is stated that since the petitioner is not an indigent person and, therefore, he is not entitled for any compassionate appointment.

5. Having heard the rival contentions and gone through the paper book , I am of the view that no interference is called for in the extraordinary writ jurisdiction vested under Article 226 of the Constitution of India.

6. It is a settled position that compassionate appointment is not a reservation and cannot be treated as an alternative mode of backdoor recruitment so as to avoid the competition and by pass the selection on the basis of merits. Rather the same is in the nature of and by way of humanitarian consideration for ameliorating relief depending upon the financial condition/indigency of the family of the dependents of the employee dying in harness.

7. The compassionate employment, therefore, cannot be claimed as a matter of right on the ground of compassion as the policy does not bestow any fundamental or statutory enforceable right upon the next of the kin of a deceased employee.

8. Even otherwise, learned State counsel submits that the petitioner and his mother were/are not suffering from any indigency so as to be entitled for appointment on compassionate grounds, the same has not been controverted since the mother of the petitioner has already availed financial assistance.

9. In view of the aforesaid discussion and reasons contained therein, the writ petition is dismissed.

29.03.2022
vandana

(Arun Monga)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No